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8 *Grenert, P. Harman, G. Lewis, K. Ohland, R. Tupy,*
and T. Wood
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10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

15 **MICHAEL ROMERO,**

16 Plaintiff,

17 v.

18 **S. ELLERY, et al.,**

19 Defendants.
20

C 12-1084 RS (PR)

**DECLARATION OF R. DUNCAN IN
SUPPORT OF DEFENDANTS'
REQUEST TO CHANGE TIME TO FILE
DISPOSITIVE MOTION**

21
22 I, ROBERT DUNCAN, declare and state:

23 1. I am employed by the Office of the California Attorney General as a Deputy Attorney
24 General in the Correctional Law Section and I am assigned to represent Defendants J. Anderson,
25 M. Cate, M. Creed, S. Ellery, B. Grenert, P. Harman, G. Lewis, K. Ohland, R. Tupy, and T.
26 Wood.
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1 2. On March 5, 2012, Defendants J. Anderson, M. Cate, M. Creed, S. Ellery, B. Grenert,
2 P. Harman, G. Lewis, K. Ohland, R. Tupy, and T. Wood filed a notice of removal from Del Norte
3 County Superior Court to the Northern District of California and filed a waiver of reply

4 3. On January 17, 2013, the Court screened this pro-se prisoner's First Amended
5 Complaint under 28 U.S.C. § 1915A. This Court found that Plaintiff stated cognizable § 1983
6 claims against the Defendants (with the exception of Defendant J. Anderson) and ordered service
7 on Defendants M. Cate, M. Creed, S. Ellery, B. Grenert, P. Harman, G. Lewis, K. Ohland, R.
8 Tupy, T. Wood, and M. Sayre. The screening order directed the Defendants file a motion for
9 summary judgment or other dispositive motion within ninety days of the date of its Order of
10 Service, resulting in an April 17, 2013, deadline.

11 4. Additional time is necessary to locate and procure potentially relevant documents that
12 are necessary to complete the dispositive motion. Also I have not been able to locate and
13 interview all the potentially relevant declarants.

14 5. Moreover, during the time since the Court screened Plaintiff's First Amended
15 Complaint on January 17, 2013, I have been engaged in the following matters in addition to other
16 case-related work:

- 17 a) On January 29, 2013 and February 13, 2013, I participated in mediation
18 conferences in *Cotton v. Cate, et al.*, No. 12-15829 (9th Cir. Apr. 12, 2012);
- 19 b) On February 13, 2013, I filed a motion to declare plaintiff a vexatious litigant in
20 *Peoples v. Hartmetz, et al.*, Monterey County Superior Court, No. M119284,
21 and on March 15, 2013 and April 12, 2013, I attended hearings for the motion;
- 22 c) On February 7, 2013, I filed a request for a screening order in *Richardson v.*
23 *Reyes*, No. 12-0310 (N.D. Cal filed Jan. 20, 2012) and on February 26, 2013, I
24 filed a joint case management statement;
- 25 d) I have also been actively involved in litigating *Washington v. Sandoval*, No. 10-
26 0250 (N.D. Cal. filed Jan. 19, 2010); I filed an answer to an amended complaint
27 on January 30, 2013, I attended a settlement conference on January 30, 2013, I
28 served a privilege log and supplemental responses to requests for production of

1 documents on February 21, 2013, I defended the deposition of a correctional
2 officer on March 8, 2013, I responded to a subpoena to produce documents on
3 March 15, 2013, I responded to requests to produce documents on March 22,
4 2013, I filed an opposition to a motion to compel discovery on March 25, 2013,
5 I deposed an inmate on March 25, 2013, I deposed another inmate on March 26,
6 2013, I attended a motion to compel discovery hearing on March 27, 2013, and
7 I filed a joint stipulated protective order on April 8, 2013.

8 6. I anticipate that an additional sixty-one days should provide sufficient time to
9 thoroughly review the documents and complete the dispositive motion. The extension will place
10 the deadline on June 17, 2013.

11 7. I have not attempted to contact Plaintiff Romero for a stipulated request to extend
12 time because he is a pro-se state prisoner who is not easily available by telephone. Because
13 Plaintiff is a prisoner, it is also difficult to deliver this motion for an extension of time on the
14 same day it is filed. Thus, Defendants are serving it by the most expedient means available, first-
15 class mail.

16 8. For these reasons, Defendants request an extension of the deadline, up to including
17 June 17, 2013.

18 9. The requested extension of time will have minimal impact on the schedule for the
19 case, and no other deadlines will be affected.

20 10. This request is not made for any purpose of harassment, undue delay, or any improper
21 reason.

22 I declare under penalty of perjury that the foregoing is true and correct. Executed at San
23 Francisco, California, April 17, 2013.

24
25 /s/ D. Robert Duncan
26 D. ROBERT DUNCAN
27 Deputy Attorney General
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